IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 12733 of 2005

Between:

N. Manik Rao, s/o N. Lingam,
Plot No. 199, Sy.NO. 9/1/G, Saroornagar,

Sri Ramakrishnapuram,
Ranga Reddy District.

..... PETITIONER

AND

1 The Municipal Commissioner,

Office of L.B. Nagar Municipality, Ranga Reddy District.
2 The Town Planning Officer,

Office of L.B. Nagar Municipality, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring, declaring the action of the respondent in serving the notice on 13-6-2005 with antedate ie., dt. 6-6-2005, on the petitioner, without considering the explanation dt. 3-6-2005 of the petitioner in spite of court order dt. 7-6-2005 as highly arbitrary, illegal and against principles of natural justice and consequentially set aside the notice dt. 6-6-2005 regarding the structures constructed in the site admeasuring 500 sq yards situated at ward No.11, Block No.12, Sri Ramakrishnapuram (Income Tax Colony), Road No.5 Saroornagar Village, Saroornagar Mandal, L.B. Nagar Municipality, Ranga Reddy District, as without application of mind of the respondent and without following the due process established under law and pass such order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.T.M.K.CHAITANYA

Counsel for the Respondent Nos.1 and 2: MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

The Court at the stage of admission made the following:

ORDER:

Seeking Writ of Mandamus, declaring the action of the respondents in serving the notice on 13.06.2005 with antedate i.e. dated 06.06.2005 on the petitioner, without considering the explanation dated 03.06.2005 of the petitioner in spite of Court order dated 07.06.2005, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents.

Earlier the 1st respondent issued a notice to the petitioner on 02.06.2005 stating that the petitioner was making constructions contrary to the sanction plan, and for that the petitioner submitted his explanation on 03.06.2005, and against that notice dated 02.06.2005, the petitioner has also filed W.P.No.11904 of 2005 and this Court passed an interim order on 07.06.2005, directing the respondents to consider the explanation of the petitioner dated 03.06.2005 and pass appropriate orders thereon. After considering the explanation of the petitioner, as directed by this Court, the respondents passed the impugned order dated 13.06.2005, which is assailed in this writ petition.

When the writ petition came up for hearing, the learned standing counsel, appearing for the respondents, submitted that as against the impugned order, an effective alternative remedy of appeal is provided under Section 345 of A.P.Municipalities Act, 1965, and without availing that remedy of appeal, the petitioner straight away filed this writ petition, which is not maintainable.

As a statutory remedy of appeal is provided against the impugned order, I am of the view that the present writ petition is not maintainable. However, it is left open to the petitioner to make an appeal before the appellate authority against the impugned order, within a period of two weeks from the date of receipt of a copy of this order,

and it is for the appellate authority to consider and dispose of the same in accordance with law.

With the above observations, the Writ Petition is dismissed. No order as to costs.

Dated: 15.06.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Municipal Commissioner,

Office of L.B.Nagar Municipality,

Ranga Reddy District

2. The Town Planning Officer,

Office of L.B.Nagar Municipality,

Ranga Reddy District

3. Two CD copies

4. 1 CC to MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

*Form-NIC-OGS/WP{**AVLR**}*